

REMARKS

Claims 22-42 are pending in this application. In the office action, the Examiner objected to the specification due to certain informalities. The Examiner also rejected claims 22-25, 28-36 and 38-40 under 35 USC 102(b) as clearly being anticipated by Xiao (US Patent 5,537,247). The Examiner has also rejected claims 26, 27, 37, and 41 under 35 USC 103(a) as being unpatentable over Xiao.

In response, the applicant has amended the specification and claim 22. Claims 22-42 are pending in this application. The foregoing amendments and the following remarks are considered by applicant to overcome each of the Examiner's outstanding rejections. An early Notice of Allowance is therefore requested.

The Examiner objected to the specification due to certain informalities. Applicant has amended the specification to correct these informalities. Thus the Applicant respectfully requests that this Examiner withdraw his objection.

The Examiner has rejected claims 22-25, 28-36 and 38-40 under 35 USC 102(b) as clearly being anticipated by Xiao (US Patent 5,537,247). In particular, the Examiner points to aperture 50 as performing the function of spatially separating the illumination light from the detection light. Claim 22 has been amended to specifically recite a beam splitter. There is quite a large difference between using a beam splitter and an aperture as a common pinhole. Thus, applicants contend that claims 22-25, 28-36 and 38-40 are not anticipated by Xiao and the Examiner's rejection is traversed.

The Examiner contends that the plate 50 could also take the form of beam splitter 55 acting as a spatial separator. However, the Examiner simply states that apparently without any support from the references. Applicants respectfully disagree. Since the Xiao reference does not disclose plate 50 in the form of a beam splitter, it appears that the Examiner's rejection of claims 22-25, 28-36 and 38-40 is based on the examiner's knowledge of prior art. This is an inappropriate for a rejection under 35 U.S.C. § 102. In addition, to the extent that the Examiner contends that these claims are rejected under 35 U.S.C. § 103 based on the

same contention, applicants seasonably challenge these assertions. Under MPEP Section 2144.03, applicant respectfully requests the Examiner to produce a prior art reference that supports his view that the use of a beam splitter is well-known. If the Examiner cannot produce a reference, applicant respectfully requests the Examiner to withdraw the rejection of claims 22-25, 28-36 and 38-40.

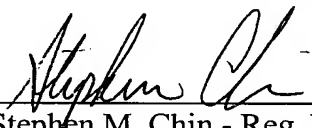
The Examiner has also rejected claims 26, 27, 37, and 41 under 35 USC 103(a) as being unpatentable over Xiao. These claims are dependent on claim 22 and should be allowable for the same reasons that claim 22 is allowable.

Claims 22-42, the only claims pending in this application, are believed by applicants to define patentable subject matter and should be passed to issue at the earliest possible time. In view of the foregoing, it is respectfully submitted that the claims are in condition for allowance and favorable reconsideration and prompt notice to that effect are earnestly solicited.

Respectfully submitted,

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